

# CITY COUNCIL REPORT



Meeting Date: January 24, 2012  
General Plan Element: ***Public Services & Facilities***  
General Plan Goal: ***Provide a safe environment for all citizens, visitors and private interests***

## ACTION

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**Ordinance 3966 amending Chapter 16, Article IX, Second Hand Dealers, Pawnbrokers and Auction Houses.**

Adopt Ordinance 3966 amending Chapter 16, Article IX of the Scottsdale Revised Code pertaining to Secondhand Dealers, Scrap Metal Dealers, Junk Dealers, Pawnbrokers, Auctioneers and Auction Houses.

## BACKGROUND

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The regulation of Second Hand Dealers, Pawn Shops, Auction Houses and Auctioneers has been in place since 1971. Since that time there have been several amendments to the code. Changes to the code in 1988 (ordinance 1895) added fingerprinting of employees as a requirement and also set up a process for approval or denial of a license. In 1989 (ordinance 2235) added the requirement for reporting all transactions on Pawn Tickets. The changes in 1991 (ordinance 2376) had the primary effect of consolidating the Second Hand Dealer, Junk Dealer and Pawn Shop categories into Article IX of Chapter 16 so that all regulatory and licensing requirements were contained in one location in City Code. The update in 2004 (ordinance 3549) moved the Auction House and Auctioneer licenses to Article IX of Chapter 16 from Article IV, Miscellaneous Licenses.

The provisions of Article IX of Chapter 16 were intended to address potential criminal activity at some types of fixed businesses where stolen merchandise might be bought and sold. This article is also intended to protect the public from usurious practices by pawnshops.

The current updates were initiated primarily to give the Police Department the ability to process pawn tickets electronically and secondarily to recover the cost of the software needed to electronically link the City of Scottsdale pawn and second hand tickets with the Maricopa County database of stolen merchandise. The current process is manual and requires pawn tickets to be filled out by businesses and then mailed to the Police Department. These tickets must then be manually keyed into a database so that they can be compared with the County records. Processing of the tickets electronically will eliminate these steps, allowing for much quicker response times on identifying stolen merchandise.

Changes are also being made to bring Article IX, Chapter 16 in compliance with Arizona Revised Statutes Title 9, Chapter 7, Article 4, section 9-835, the Regulatory Bill of Rights. These changes were added by the Arizona State Legislature in their last session. This law requires municipalities to have a defined overall timeframe for the approval or denial of licenses and permits. These requirements have been written into the current ordinance updates. In addition, changes were made that clarify and update language in the present code, change the auctioneer license from a per auction license to a yearly license, increase reporting exemptions, and change the licensing fee structure.

## **ANALYSIS & ASSESSMENT**

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### **Recent Staff Action**

The Police Department, Tax & License and Legal have met for the past six months to update the City's regulations regarding secondhand dealers, pawnbrokers, auction houses and auctioneers. The recommended changes were initiated by the police department to address the backload of pawn tickets that currently have to be manually processed. The requirement for electronic processing of pawn tickets was included in this revision as well as new fees related to pawn ticket transactions. Updates were also made to some of the licensing and fingerprinting fees. There was extensive community involvement throughout this process and several re-writes of the ordinance were made to address industry concerns.

Administrative updates were also added to Ordinance 3966 to satisfy the requirements instituted by the Arizona State Legislature (A.R.S. 9-835) in 2011. The new State Statute requires all municipalities to include a defined overall timeframe for the approval or denial of all licenses and permits.

Language is also being updated in this ordinance to modernize the terminology and to bring it in line with current practices within the industry. Exemptions that were added allow for several low risk categories of merchandise to be eliminated from the reporting requirements. High risk and serialized items continue to require reporting.

Due to the feedback received by phone, e-mail and at the public meetings, several additional changes were initiated. Additional changes included in Ordinance 3966 are:

- Adding definitions for "estate," "home décor" and "precious item"
- Adding exemptions for estate sales under certain conditions, this includes most home décor items valued less than \$500 and items that are not precious and do not have a serial number that are valued less than \$100
- Revising the transaction forms
- Once electronic processing is in place, allowing businesses to retain hard copies of transactions so that they no longer need to provide a copy to the police department

### **Policy Implications**

This ordinance will require business owners to electronically report transactions to the police department. A transaction fee will be assessed on a per transaction basis. Businesses will also have the option of paying a flat fee for unlimited transactions on a monthly basis. Transactions will be

automatically be uploaded and reported to the Maricopa County Pawn Database. Automatic reporting will decrease the amount of time businesses will have items on hold, and increase the recovery of stolen property.

### **Significant Issues to be Addressed**

The purpose of this update was to address the backlog of pawn tickets in the Police Department. Electronic filing of pawn tickets will significantly increase the chances of recovering stolen property since the transmission to the Maricopa County Pawn Database will be immediate. Additionally the addition of the licensing timelines will put this regulatory code in compliance with Arizona Revised Statutes.

### **Community Involvement**

The city conducted extensive stakeholder outreach for the proposed ordinance update. The following is a summary of the outreach efforts.

- A webpage was created containing the original ordinance, the planned updates, the means for providing feedback and the revisions following community input.
- Notifications were communicated to the public in the city's weekly e-newsletter *Scottsdale Update*.
- Information was sent to the media for inclusion in various media outlets.
- Letters were mailed to stakeholders informing them of the proposed changes and opportunities for input.
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- A focus group was held on September 13, 2011 to solicit local business owner input
- Three Open Houses were held one on September 22, 2011, the second on September 27, 2011 and a third on November 3, 2011. Information about the meeting dates, times and locations was posted on the city calendar.
- Personal meetings were held with stakeholders who requested a separate discussion.
- Site visits were made by the Police Department and Tax and License to further understand the concerns of the stakeholders.
- An e-mail address and a phone number were made available for public feedback.

## **RESOURCE IMPACTS**

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### **Available funding**

RICO funds will be used to fund the initial cost of establishing an electronic reporting system. Transaction fees will be used to fund future years.

### **Staffing, Workload Impact**

No additional staff will be needed to incorporate the changes in this ordinance. The Police Department will use an existing position to continue to monitor reporting and coordinate inspections. Tax and License will use existing staff to absorb the work of collecting fees and issuing pawn tickets. If the electronic reporting option is not supported, the police department will need to

seek additional staffing to meet the demand for increased work load created by the current success of businesses regulated by this article.

**Maintenance Requirements**

The software needed by the Police Department to implement this program will be maintained through the vendor via annual contract. Tax and License internal integrator support staff will assist in setting up the tracking needed for this process.

**Future Budget Implications**

RICO funds can only be used for the initial start up of this program. The annual maintenance agreement will need to be added to general line item fund liability, or covered through the cost recovery option proposed in this ordinance.

**OPTIONS & STAFF RECOMMENDATION**

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**Recommended Approach**

Adopt Ordinance 3966

**RESPONSIBLE DEPARTMENT(S)**

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Police, Finance and Accounting, City Attorney

**STAFF CONTACTS (S)**

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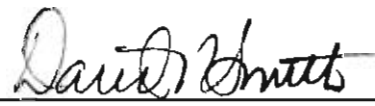
**APPROVED BY**

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1-9-12  
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## ATTACHMENTS

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1. Ordinance 3966
2. Ordinance Fee Schedule
3. Summary of Stakeholder Feedback
4. Letter sent to Stakeholders
5. Copy of Web Page

ORDINANCE NO. 3966

AN ORDINANCE OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, AMENDING CHAPTER 16, ARTICLE IX OF THE SCOTTSDALE REVISED CODE PERTAINING TO SECONDHAND DEALERS, SCRAP METAL DEALERS, JUNK DEALERS, PAWNBROKERS, AUCTIONEERS AND AUCTION HOUSES

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. Chapter 16, Article IX of the Scottsdale Revised Code is hereby amended as follows, with new language shown in shaded format and deleted language in strikethrough format:

**Article IX. Secondhand Dealers, Scrap Metal Dealers, Junk Dealers, Pawnbrokers, Auctioneers and Auction Houses**

**Division 1. Generally.**

**Sec. 16-311. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Auction house* means any person operating a place of business where property is received from other persons or businesses, when such property is to be sold to third parties, by auction, either publicly or privately, whether for cash, property or other consideration.

*Auctioneer* means a person who runs a public sale where tangible property is sold to the highest bidder.

*Control* means the power to direct or cause the direction of the management and policies of an applicant, licensee or controlling person, in any way. Control is presumed to exist:

(1) In a privately-held corporation, if a person has the direct or indirect ownership of or power to vote ten (10) percent or more of the outstanding voting securities of the applicant, licensee or controlling person, or to control in any manner the election of one or more of the directors of the applicant, licensee or controlling person. To determine the percentage of voting securities owned, controlled or held by a person, there shall be added the voting securities of any other person controlled by (i) that person, or (ii) by an officer, partner, employee or representative of that person or (iii) by a spouse, parent or child of that person.

(2) In a publicly-held corporation, if any officer, director or manager is responsible for the operations of the licensee. Notwithstanding the foregoing, a publicly-held corporation may designate a single specific officer, operations manager or manager as the controlling person, as

long as such designated person is responsible for the specific location or the geographic area for which the business is located.

(23) In a partnership, if the general partner or a limited partner holds ten (10) percent or more of the voting rights of the partnership.

(34) If a creditor of the applicant, licensee or controlling person holds a beneficial interest in ten (10) percent or more of the liabilities of the applicant, licensee or controlling person.

(45) In an on-site manager of a business required to be licensed pursuant to this article, who directs the daily operation of the business, whether or not the on-site manager has any ownership interest in the business.

*Controlling person* means a person directly or indirectly possessing control of an applicant, licensee or business, and includes an agent and an on-site manager.

*Director* means the ~~customer service~~ director responsible for licensing and revenue of the City of Scottsdale, or the director's designee.

*Estate sale* means the sale of the entire contents of a residential dwelling.

~~*General manager* means the general manager of financial services of the city, or the general manager's designee.~~

*Home Décor Item* means a good or article that is primarily used as a home or office decoration such as a painting, vase, statue, figurine, candle holder, mirror, frame or artificial plant.

*Junk dealer* means any person engaged in the business of purchasing, obtaining or accepting on consignment materials from persons other than the original manufacturer or authorized distributor, when the materials are purchased or obtained for sale, credit, trade or exchange and the material obtained or purchased is to be put to a use inconsistent with its original purpose.

"Materials," as used herein, includes, but is not limited to, vehicle parts or accessories, machinery, iron, copper, brass, lead, zinc, tin, steel, aluminum or other metals, including gold, silver and platinum, and metal alloys, metallic cables, wire, batteries, rope, rubber and other like materials. "Put to a use inconsistent with its original purpose" means to dismantle, scrap, melt down, press, transform or otherwise disfigure a material for resale in the altered form, or for use by the purchaser in the altered form.

*Licensee* means a person who has been issued a license pursuant to the provisions of this article.

*Law enforcement agency* means the Scottsdale Police Department, the county sheriff, or any other ~~municipal, county, state, tribal~~ or federal law enforcement agency exercising their lawful jurisdiction within the city.

*Law enforcement officer* means an officer or agent of a law enforcement agency.



*Pawnbroker* means a person engaged in the business of advancing money on the security of pledged goods, or who is engaged in the business of purchasing tangible personal property on the condition that it may be redeemed or repurchased by the seller for a fixed or variable price within a fixed or variable period of time. A person is engaged in the business of pawnbroker whether such business is the principle or sole business engaged in, managed or conducted, or whether it is merely incidental to it, or conducted in conjunction with a branch or department of some other business or businesses.

*Person* means any individual, proprietor, employee, agent, company, organization, association, joint venture, partnership, business trust or corporation.

*Police Department* means the Scottsdale Police Department.

*Precious item* means gold, silver, platinum or jewelry, flatware or holloware containing gold, silver or platinum, precious or semiprecious stones whether mounted or unmounted and pearls. Precious item does not include coins and unmounted gemstones accompanied by a certificate from an independent, internationally recognized gem grading laboratory.

*Publicly-held corporation* means a corporation issuing shares of stocks, which are traded on the open market, either on a stock exchange or on the over-the-counter market.

*Scrap metal dealer* means each person or business entity including all employees of the person or business entity, ~~except automotive recyclers as defined and licensed pursuant to Title 28, Chapter 10, of the Arizona Revised Statutes, whose primary business is the dismantling, selling or disposing of parts or accessories of motor vehicles~~ engaged in the business of purchasing, trading, bartering or otherwise receiving secondhand or castoff material of any kind, except used beverage containers, which is commonly known as scrap metal. "Scrap metal" includes insulated and uninsulated metallic cables. "Scrap metal dealer" does not include automotive recyclers as defined and licensed pursuant to Title 28, Chapter 10, of the Arizona Revised Statutes, whose primary business is the dismantling, selling or disposing of parts or accessories of motor vehicles or any person engaged in the business of purchasing precious items.

*Secondhand dealer* means any person engaged in conducting, managing, or carrying on the business of buying, selling, trading or exchanging, or accepting for sale on consignment, or otherwise dealing in secondhand goods, wares, merchandise or articles, including, but not limited to antiques, jewelry, precious metals, gold, silver, platinum, precious and semi-precious stones, whether or not the business is the principle or sole business conducted or is rather a part thereof or incidental to it. "Secondhand dealer" shall not include dealers, or auctioneers of property, the transfer of title to which is required by the laws of the state to be evidenced by a written instrument recorded in a department or office of the state or county government.

*Secondhand, auction house or pawn employee* means any person employed by, or who has contracted to work for, a secondhand dealer, auction house, pawnbroker, junk dealer or scrap metals dealer, whose job duties at any time involve handling of the kinds of materials, items or articles that characterize the business, as defined in this section.



**Sec. 16-312. - Exemptions.**

The provisions of this article do not apply to:

- (1) Persons who engage ~~strictly and~~ solely in the selling of secondhand goods, wares, merchandise or articles.
- (2) Buying, selling, trading, exchanging, consigning, or otherwise dealing in recycling metal cans, paper, cardboard or glass.
- (3) Buying, selling, trading, exchanging, consigning, or otherwise dealing in used books, tires (excluding rims), clothing, coins not set in a bezel, postage stamps, trading cards, comic books, furniture (other than appliances) and works of art placed on consignment by the original artist. Sports memorabilia valued at ~~five~~ **one hundred** dollars (\$5100.00), or less, shall also be exempt.
- (4) Organizations that have been determined to be exempt from taxation, pursuant to Section 501(c) of the Internal Revenue Code, by the Internal Revenue Service, including churches and religious organizations.
- (5) Investment or securities brokerage houses or financial institutions as defined in Arizona Revised Statutes Section 44-1601, paragraph 1, items (a), (b) and (c).
- ~~(6) DVDs, CDs, videos, tapes, computer and video games traded in for store credit when the value of that credit does not exceed seventy five dollars (\$75.00) in a single transaction. All transactions made within a twenty four (24) hour period shall be considered a single transaction for the purposes of this subsection.~~
- (6) Buying, selling, trading, exchanging, consigning or otherwise dealing in DVDs, CDs, videos, vinyl records, tapes, computer and video games.**
- (7) Persons who purchase secondhand goods, wares, merchandise or articles from organizations exempted from this article pursuant to subsection 4 above.**
- (8) Goods or articles purchased by a licensee from a business engaged in the lawful liquidation of its business. A licensee receiving goods or articles pursuant to this exemption shall retain for a period of one (1) year documentation substantiating that the goods or articles were received pursuant to the lawful liquidation of a business and make those records available upon request to any law enforcement agent.**
- (9) Goods or articles that are not considered a precious item and do not bear a serial number or owner applied number that have a fair market value less than one hundred dollars (\$100.00).**
- (10) Goods or articles that are considered home décor items and do not bear a serial number or owner applied number that have a fair market value less than five hundred dollars (\$500.00).**

**Sec. 16-313. - Purpose and effect.**

This article is enacted for regulatory purposes. Persons required to obtain a license for transacting and carrying on any business listed in this article shall not be relieved from the payment of any tax levied for revenue purposes nor any fee required under any other ordinance of the city and shall remain subject to the provisions of such other ordinances.

(a) This article is enacted for regulatory purposes and is designed to promote the safety and welfare of the citizens of Scottsdale and mitigate any negative secondary effects.

(b) Persons required to obtain a license for transacting and carrying on any business listed in this article shall not be relieved from the payment of any tax levied for revenue purposes nor any fee required under any other ordinance of the city and shall remain subject to the provisions of such other ordinances.

**Sec. 16-314. – Administration.**

(a) The administration of this article, including the duty of prescribing forms, is vested in the general city manager or designee, except as otherwise specifically provided. The chief of police shall render such assistance in the application and enforcement of the article as may be required by the general manager or the director, as appropriate.

(b) License applications made pursuant to this article shall be submitted to the director, who shall have the authority to issue, deny, or revoke licenses in accordance with the provisions of this article, or as may be provided elsewhere in this chapter.

(c) The police department shall assist in the administration and enforcement of this article.

**Sec. 16-315. – Customer Returns.**

(a) The return of goods or articles sold by a licensee and returned by the purchaser to the same licensee is exempt from the requirements of this article provided that all of the following apply:

(1) The goods or articles are the exact same merchandise that was purchased from the licensee by the purchaser;

(2) The licensee complied with the provisions of this article when the licensee originally acquired the goods or articles; and

(3) The licensee maintain a copy of the receipt documenting the return for a one (1) year period from the date of return and make any such receipt available for inspection by a law enforcement officer upon demand during normal business hours.

**Sec. 16-316. – Estate Sales; exemption.**

The provisions of this article do not apply to estate sales except as provided for in Section 16-317, if all of the following apply:

(a) The estate sale is being conducted as either an auction or on a consignment basis;



(b) The person conducting the sale has entered into a written agreement with an authorized representative of the estate; and

(c) That only goods or articles that are part of the estate are being sold.

**Sec. 16-317. – Estate Sales; special requirements.**

(a) The requirements of this article shall apply to goods or articles that are considered precious items even when included as part of an estate sale.

(b) Any person conducting an estate sale shall retain for a period of one (1) year a copy of the written agreement specified in Section 16-316(b) and make that agreement available upon request to any law enforcement agent.

**Sec. 16-318. – Scrap Metal Dealers; reporting exemption.**

Scrap metal dealers are exempt from the reporting requirements of section 16-338 for purchases made pursuant to Title 44, Chapter 11, Article 3.1, of the Arizona Revised Statutes.

**Secs. 16-319—16-330 - Reserved.**

**Division 2. License.**

**Sec. 16-331. - Required; term.**

(a) It shall be unlawful for any person to act within the city as an auction house, auctioneer, junk dealer, scrap metal dealer, pawnbroker or secondhand dealer, without first obtaining a city license to do so ~~from the customer service director.~~

(b) A license required by this section is in addition to any other licenses or permits required to engage in business by the city, county, state and federal governments, and shall be nontransferable, either person-to-person, or location-to-location.

**Sec. 16-332. - Application; auction house, auctioneer, or junk dealer, pawnbroker, scrap metal dealer, secondhand dealer license; time for issuance.**

(a) Applications for the license required by this article are subject to the terms and conditions of article I of this chapter.

(b) An application for a license required by this article for an auction house, auctioneer, junk dealer, pawnbroker, scrap metal dealer or secondhand dealer license shall be made ~~thirty (30) days prior to the event or start of business~~ upon forms provided and prescribed by the director.

(c) Prior to the issuance of a license pursuant to this section, the applicant will meet personally with a designated representative of the police department to: (1) review requirements relating to reports of purchases pursuant to this article and (2) be photographed for identification purposes. The provisions of this subsection ~~(d)~~ shall be inapplicable to the renewals of licenses pursuant to this article.

(d) Administrative Time Frame: Unless the license has already been issued, within fifteen (15) days after receiving a license application under this article, the director will determine whether the application is administratively complete, and notify the applicant as set forth in article I.

(e) Substantive Review Time Frame: Within forty-five (45) days after the notice of administrative completion, the city will complete its substantive review of the license application in conformance with state law.

(f) Overall Time Frame: Within ninety (90) days, subject to any extensions in conformance with state law, after receiving an application pursuant to this article, the director will grant or deny a license.

(g) The time frames provided for in this section are suspended if an application has been determined to be administratively incomplete or a supplemental request has been made during the substantive review period until the applicant corrects any deficiencies or responds to a supplemental request for information.

**Sec. 16-333. - License fees; duration.**

(a) There are imposed upon the persons specified in this article fees in the amounts prescribed below, which must be paid prior to the issuance of any license and are nonrefundable:

(1) Secondhand dealers, pawnbrokers, junk dealers, scrap metal dealers, auctioneers and auction houses: ~~One hundred dollars (\$100.00)~~ Two hundred dollars (\$200.00) for the first year and thereafter one hundred dollars (\$100.00) annually.

~~(2) Auctioneer: Twenty five dollars (\$25.00) per auction.~~

~~(32) Each applicant or person requiring a records check and fingerprinting shall pay applicable fees for each records check and fingerprinting required by this article. The amount of the fee shall be the actual cost of obtaining the criminal history information from the Arizona Department of Public Safety.~~

(43) Duplicate license fee, ten dollars (\$10.00) ~~except that a duplicate license sent electronically may be provided at no charge.~~

(b) Recovery of license fees for prior periods of unlicensed business shall be the current license fee, plus the fees applicable for unlicensed periods, up to a maximum of four (4) previous years.

(c) All licenses issued pursuant to this article shall be for a period of one (1) year and shall be renewable under the terms and conditions of this article.

**Sec. 16-334. - Fingerprints; background investigation; time for issuance.**

~~(a) All applicants for licenses, including all controlling persons, and secondhand, auction house or pawn employee(s), under this article, shall personally appear at the tax and license office of the city, a city office or other governmental agency designated and as directed by the director, for the purpose of being fingerprinted and pay any applicable fingerprinting fees. Applicable~~



fees owed to the city shall not exceed forty (40) dollars and shall include the actual cost of obtaining the criminal history information from the Arizona Department of Public Safety. The police department shall conduct a background investigation of the applicant or employee and shall advise the director of the findings of such investigation within the period allowed to the director to issue or deny the license.

~~(b) The director shall have sixty (60) days from the date of the completion of all application materials and requirements to either issue or deny any license subject to this article. The issuance and denial of licenses pursuant to this article shall be as provided in article I of this chapter. The issuance of any license shall in no way be construed as a waiver of any right of denial or revocation that the city may have at the time of issuance.~~

**Sec. 16-334.1. - Non-acceptance and denial of application.**

(a) The director shall not accept an application for a license if:

- (1) The application is incomplete; or
- (2) The application shows that the applicant or any controlling person has been convicted of a criminal action that would be grounds for denial of the application; or
- (3) The director knows that the applicant or any controlling person has been convicted of a criminal action that would be grounds for denial of the application.

~~(4) The director knows that the applicant or any controlling person has an outstanding arrest warrant issued by any jurisdiction within the United States.~~

(b) The director shall deny a license if:

- (1) All requirements for the application have not been completed; or
- (2) The applicant is a corporation which is not qualified to transact business in Arizona; or
- (3) The applicant is delinquent in payment to the city of any taxes, fees, fines, or penalties imposed upon the applicant, or arising out of any other business activity owned or operated by the applicant and licensed by the city; or
- (4) The applicant is in violation of any applicable provisions of ordinances and regulations of the city, including article I of this chapter, relating to the business or occupation to be conducted under the license; or
- (5) The applicant or any controlling person has been convicted of a criminal offense that would be grounds for denial of the application, as provided in article I of this chapter. ~~Except that if the disqualified controlling person is an onsite manager without an ownership interest, the applicant may amend its application to include a new onsite manager and the grounds for denial under this subsection shall not be applicable. The substantive review and overall times frames shall be suspended pursuant to section 16-332 (g) until a background check can be completed on the new onsite manager.~~

**Sec. 16-334.2. - Renewal of license.**

(a) Applications for license renewal shall be completed on forms designated by the director and shall be submitted to the director with the applicable renewal fee.

(b) To assure continued operation of the licensee's business without an unlawful lapse in the license, a licensee applying for license renewal shall file a renewal application with the director no later than sixty (60) days before the expiration of the license currently in effect.

(c) The time frames specified in section 16-332 shall also be applicable to license renewals.

**Sec. 16-335. - Duplicate licenses.**

A duplicate license may be issued by the director to replace any license issued hereunder, which has been lost, damaged or destroyed. The issuance of a duplicate license shall be conditioned upon the licensee filing a statement, to include email, with the director, indicating the circumstances necessitating the duplicate license, and paying such duplicate license fee, if any, as is required by this article.

**Sec. 16-336. - Posting and display of license.**

(a) Any licensee under this article transacting and carrying on business at a fixed place of business, shall keep the license posted in a conspicuous place upon the premises where such business is conducted.

(b) Any licensee transacting and carrying on business but not at a fixed place of business in the city shall keep the license upon his person at all times while transacting and carrying on the business for which it was issued. The licensee shall display the license upon request to do so by any law enforcement officer or authorized city employee.

**Sec. 16-336.1. - Information update.**

All applicants and persons holding licenses issued pursuant to this article shall give written notice to the director of any material changes in information submitted in connection with an application or application for renewal of a license (e.g. legal name, residence address, mailing address, criminal history as described as grounds for denial in section 16-4(d)(1) of article I of this chapter. Material changes under this section also include any changes in the employees employed by a licensee. This information shall be provided to the director by licensee or the effected person, as applicable, within ten (10) days of any such change.

**Sec. 16-337. - Remedies cumulative.**

All remedies prescribed by this article shall be cumulative and supplemental and the use of one (1) or more remedies by the city shall not bar the use of any other remedy for the purpose of enforcing the provisions of this article.

**Division 3. Procedures and Offenses.**



**Sec. 16-338. - Reports of purchases, trades, etc.; exception; penalty.**

(a) Every person engaged in the business of auction house, junk dealer, ~~scrap metal dealer,~~ pawnbroker or secondhand dealer shall, ~~make out at the time of the a reportable transaction,~~ and deliver to the police department a true, complete and accurate and legible report of all reportable the transactions. "Reportable transactions" as used in this section means the receipt of goods and articles by a licensee, whether received on deposit, in pawn, pledge or consignment, trade or exchange, or by purchase. The report shall be made on forms provided by the police department. The report shall be made on forms provided or in a manner approved by the police department

(b) Except as provided for in subsection (e) below, the required forms are paid for in advance at a location designated by the police department and the cost of each report form shall be two (2) dollars.

(c) Completed hard copy reports shall be delivered to the police department or postmarked with proper postage within forty-eight (48) hours after receipt of the property being reported. The requirement to deliver or mail completed hard copy reports to the police department shall be superseded upon implementation of an electronic reporting system by the police department and at such time, the completed hard copy reports that were previously required to be delivered or mailed to the police department shall be maintained on the premises of the business where the transaction took place for a period of twenty four (24) months.

(d) All reports made pursuant to subsection (a) above, shall also be transmitted electronically in a manner and format approved and designated by the police department within twenty four (24) hours after receipt of the property being reported. The provisions of this subsection shall only be effective upon the implementation of an electronic reporting system by the police department.

(e) The provisions of subsection (b) above shall not apply to a licensee for any given calendar month that pays the city in advance a monthly four hundred (400) dollar transaction reporting fee and complies with all of the following:

(1) The monthly transaction fee is paid at least ten (10) business days prior to the calendar month that the licensee wishes to be exempted from the requirements of subsection (b) above, and

(2) Payment is made at a location designated by the police department.

(b) Notwithstanding the provisions of subsections (a), (c) and (d), above, the reporting requirements of this section shall be inapplicable to transactions:

(1) Involving articles exempted under section 16-312 or section 16-317 of this article, or;

(2) Solely between merchants licensed under this article or between merchants, who would be required by this article to secure licenses, if their establishment were located in the city.

~~(eg) A violation of this section is shall be punishable as a class 3 three misdemeanors are punishable under state law.~~

(h) The chief of police may develop reasonable regulations in order to implement this section.

(i) "Reportable transaction" as used in this section means the receipt of goods and articles by a licensee, whether received on deposit, in pawn, pledge or consignment, trade or exchange, or by purchase.

**Sec. 16-338.1. - Contents of reports; filing.**

(a) Each report required to be filed pursuant to section 16-338, above, shall contain the following information for each item received. All information shall be legible and either handprinted or typewritten, excepting signatures. The reporting party shall complete all entries on the reporting form, excepting the signature of the person from whom the property is being received, and shall enter "none" or "N/A" (not applicable) as appropriate.

(1) A complete description of the property, including brand name, color and serial number, if any. The quantity of like-type items shall be shown if applicable.

(2) The date and time when the property was received.

(3) The signature of the person from whom the property was received.

(4) The name, address, and date of birth of the person transferring the property, and the name of the business represented by that person in the transaction, if any. The reporting party shall require the person from whom he is purchasing, taking in on pawn, accepting for consignment or trading, or otherwise receiving the property be identified by displaying a valid motor vehicle operator's license, a valid state non-operating identification license, a valid armed forces identification card or a valid passport with photograph, or any current, valid federal or state issued identification card with photograph. The type of identification so used and any and all identifying numbers thereon shall be recorded by the reporting party on the report.

(5) The initials of the licensee receiving the property, or the initials of the employee receiving the property on the licensee's behalf, as well as the business code issued by the Maricopa County Pawn System for pawn shops and secondhand stores.

(6) The physical description of the person from whom the property was received, including the following: Height, sex, weight, race, color of hair and color of eyes.

(7) As applicable, depending on the nature of the transaction, the amount paid for each item; the amount of money lent or given on the pawn; the amount of money for which the item was consigned; the value of the trade. The amount or value reported shall include any and all fees related to the transaction.

(8) In reportable transactions of a pawnbroker only: the right thumbprint of the person pawning, selling, placing on consignment or trading the property. The right thumbprint shall be placed on the original (white) and yellow a hard copy of the transaction report. In the absence of the right

thumb, the print of the left thumb should be used, with appropriate box checked as to which thumb has been printed. ~~This transaction report is to be mailed or delivered within 48 hours of the day that an article is received in a reportable transaction to the Scottsdale Police Department.~~

~~(b) A transaction report on a pawned article is valid for a period not more than ninety (90) days. A new transaction report must be filled in and sent to the pawn detail of the police department not later than the 91st day following the initial report, or report in compliance with this subsection (b). The new transaction report shall be completed in the same manner as the initial report required by this subsection (b), indicating in the upper right hand corner of the report, in the appropriate box, that the report is of a new loan on a previously pawned item(s). A transaction report completed in compliance with this subsection (b) is not required to comply with subsection (a)(8), above.~~

~~(be) Unless otherwise directed by the police department, in writing, the licensee will deliver the original and yellow copy of the transaction report to the police department and the licensee will retain the pink copy of transaction report in their place of business. Copies of these~~ A hard copy of each transaction reports shall be retained for twenty-four (24) months in the place of business where the transaction took place by those businesses required to report to the police department.

**Sec. 16-339. - Holding period for property acquired; exceptions.**

(a) It is unlawful for any auction house, junk dealer, pawnbroker or secondhand dealer, or scrap metal dealer to sell, transfer, exchange or otherwise dispose of any goods or articles required to be reported to the police department under the provisions of this article, except as provided herein.

(b) Property reported as a result of transactions described in this section shall not be sold, transferred, exchanged or otherwise disposed of until the property has been in the custody of the reporting licensee and in Maricopa County for a period of at least ten (10) days and at least ten (10) days have passed since the property was reported to the police department, pursuant to section 16-338, above ("holding period"). Notwithstanding the foregoing, the holding period for articles received in reportable transactions of a pawnbroker shall be twenty (20) days.

(c) During the period that property is held pursuant to this section, the licensee shall preserve it in the condition in which it was received and shall not dismantle, scrap, melt down, press, transform or otherwise disfigure it until it is held for the period required by this section. This section shall not apply to the redemption of pawned articles or to non-fabricated precious or semi-precious metals, if at the time of the transaction the metal is in ingot or bullion form. During the twenty (20) day holding period for pawn transactions and ten (10) day holding period for secondhand and auction house transactions, all items that have been purchased, traded or taken in on consignment or pawned will remain on the premises of the place of business where the items were taken in by purchase, trade, or on consignment, or pawned.

**Sec. 16-340. - Providing false information.**



It shall be unlawful for any individual to provide false information on reports required by any section of this article or to provide false information on any license application.

**Sec. 16-340.1. - Accepting item with altered identification number.**

It shall be unlawful for a licensee to accept an item in a reportable transaction, as provided in section 16-338, ~~above~~, if one or more serial or identification numbers on the item has been removed, altered or otherwise been made illegible by any means.

**Sec. 16-341. - Transactions with minors.**

(a) No licensee or merchant, regardless of whether he is required to be licensed under the provisions of this article, shall buy, accept on consignment, trade or otherwise accept merchandise from any person under the age of eighteen (18) years, unless the minor first produces a notarized letter, signed by the minor's parent or guardian, granting permission to the minor to transfer an interest in the property. A pawnbroker shall not enter into a pawn transaction or good faith outright purchase of tangible personal property with a person who is less than eighteen (18) years of age.

(b) It shall not be a defense to an alleged violation of subsection (a) that the merchant reasonably believed the minor to be eighteen (18) years or older unless the minor produced a state driver's license, or other identification as specified in section 16-338, paragraph (a)(4), and that identification purported to identify the minor as a person eighteen (18) years of age or older.

**Sec. 16-342. - Property connected with a crime.**

(a) No junk dealer, pawnbroker, scrap metal dealer, auction house or secondhand dealer shall dispose of any property which is the subject of this article when advised by a representative of a law enforcement agency that there are reasonable grounds to believe that the property is the fruit or evidence of a crime, or was used as a weapon or otherwise in the perpetration of a crime. A licensee shall surrender such property to a representative of a law enforcement agency on demand.

(b) A licensee surrendering property pursuant to subsection (a), above, shall be given a seized property receipt for the property when seized by the law enforcement agency, or the item may be retained within the place of business on an "investigative hold" ("hold"), until such time as the property is deemed by the agency to be "cleared", or ready to be seized by the agency. The hold must be released by the same law enforcement agency that placed the hold. If the property is a pawn, pledge or item held for resale upon which interest is accruing, the accrual shall cease upon notification that it is property subject to the provisions of this section.

(c) The property that has been placed on hold is to remain in the same condition as when the hold was placed, and must stay in the place of business that originally took the item in on pawn, purchase, consignment, or trade.

**(d) A law enforcement agency that places an investigative hold on an item pursuant to subsection (b) above shall have one hundred twenty days (120) to either clear or seize that**

item. A law enforcement agency may extend the investigative hold period beyond one hundred twenty (120) days for additional one hundred twenty (120) day periods upon notice to the licensee provided that the notice is provided to a licensee prior to the expiration date of an investigative hold period.

**Sec. 16-343. - Inspection of premises, property and records.**

(a) The business premises of any person required to be licensed under this article, including any property on the premises and any and all ledgers, reportable transaction reports, books, records or memoranda required to be kept either by the provisions of this article or state statute, or federal law, shall be open to inspection, copying and examination by any law enforcement officer, in the exercise of their lawful jurisdiction, upon request, at any time during the licensee's regular business hours.

(b) Any person required to be licensed under this article shall maintain at the licensee's business premises a current log of all employees employed at the licensee's premises located within the City of Scottsdale, to include:

(1) Each employee's full legal name, date of birth, home address and telephone number, employment position, date first began employment and when terminated, if applicable.

(2) The employee log shall at all times reflect the names of employees for the previous one (1) year.

(c) A licensee that is a publicly-held corporation shall maintain a current log of employees as required by subsection b above except that the log may be maintained at a central office or human resources department. In the event a log is maintained offsite pursuant to this subsection, the licensee must provide a copy of the log at the licensee's expense within twenty four (24) hours upon the request of a law enforcement officer.

(d) It is unlawful for a licensee or a licensee's employee to fail or refuse to make the premises or records available for inspection, copying and examination as provided in this chapter.

**Sec. 16-344. - Employment of persons with suspended or denied license; list of persons convicted under this article.**

(a) No licensee shall knowingly employ a person, in any capacity, in connection with the business for which the license is held, who has had a license suspended, revoked or denied under the provisions of this article. The police department shall maintain a list of such persons and will provide this information to licensees upon request. Licensees shall be deemed to have constructive notice of the contents of the list for purposes of prosecution of violations of this section.

(b) No licensee shall knowingly employ a person who has been convicted in any jurisdiction of any felony, or any misdemeanor involving fraud, theft, dishonesty, assaultive conduct or moral turpitude, if such employment is within five (5) years of the conviction. A licensee that has been notified by the police department that such a person is employed by the licensee shall terminate

such employment immediately and failure to do so shall be grounds for license suspension revocation under the provisions of this article.

**Sec. 16-344.1. - Conducting business while county license is suspended or revoked.**

It shall be unlawful for a licensee to conduct any business, licensed pursuant to activity regulated by this article, after having at any time that a county or federal license to engage in the same or similar business is suspended or revoked. This prohibition shall no longer be applicable once the licensee's county or federal license is returned to good standing.

**Sec. 16-345. - Revocation; grounds.**

(a) Licenses issued pursuant to this article shall be subject to revocation for the grounds provided in accordance with the procedures set forth in article I of this chapter. The following shall also constitute grounds for the revocation of a license or permit issued pursuant to this article:

(1) One (1) conviction of any of the following sections of this article: section 16-340 (providing false information), section 16-340.1 (accepting item with altered identification number), section 16-342 (property connected with a crime), or section 16-344 (employment of person with a conviction as described in subsection 16-344(b).

(2) Two (2) or more convictions within any three-year period for violations of any state statute, relating to the manner in which businesses of the license type the license is held for are to be operated, which violations occurred within any three-year period.

(3) Convictions for three (3) or more violations of subsection 16-338, above, occurring within any two-year period.

(4) Failure to pay any fee required by this article, if the fee owed is more than sixty (60) days overdue.

(b) For the purposes of this section, "licensee" shall include any and all controlling persons.

**Sec. 16-346. - Review and appeals.**

Any person aggrieved by any decision with respect to either the denial of or a refusal to issue a license, or the revocation of a license which is subject to this article, shall be entitled to the review and appeal procedures provided in article I of this chapter.

**Sec. 16-346.1. - Application after non-acceptance, denial, revocation or lapse of license.**

(a) If an application is not accepted because it is incomplete, an applicant may resubmit the application upon completion.

(b) Except as provided in subsection (c) below, after an application has been denied or a license has been revoked, no application shall be accepted for a license from the same applicant for two (2) years after the date of the denial or revocation.



(c) After an application has been denied or a license has been revoked for the conviction of an offense described in article I of this chapter, ~~making an applicant is~~ ineligible to reapply for a license for five (5) years from the date of conviction, ~~no application shall be accepted as set forth in article I of this chapter.~~

**Sec. 16-347. - Disposition of property; hearing.**

Property that has come into the possession and control of the police department, pursuant to the provisions of this article, is subject to disposition as provided in article XIX of this chapter.

**Sec. 16-348. - Penalty.**

(a) A violation of any of the ~~provisions requirements or prohibitions~~ of this article, except section 16-338, shall be punishable as class one (1) misdemeanors ~~are punishable under state law.~~ When a violation does not consist of a discrete act or acts, but is, in fact, continuing in nature, each day such violation continues shall constitute a separate offense.

(b) In no case shall the revocation of a license constitute a defense against prosecution for any act or omission made unlawful by the provisions of this article.

**Secs. 16-349, 16-350. - Reserved.**

PASSED AND ADOPTED by the City Council of the City of Scottsdale this 24<sup>th</sup> day of January 2012.

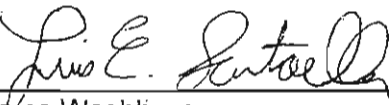
ATTEST:

CITY OF SCOTTSDALE, an  
Arizona municipal corporation

\_\_\_\_\_  
Carolyn Jagger  
City Clerk

\_\_\_\_\_  
W.J. "Jim" Lane  
Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bruce Washburn  
City Attorney  
By: Luis E. Santaella  
Senior Assistant City Attorney

**PROPOSED FEE CHANGES AND ADDITIONS RELATING TO THE LICENSING OF SECONDHAND DEALERS,  
SCRAP METAL DEALERS, JUNK DEALERS, PAWNBROKERS, AUCTIONEERS AND AUCTION HOUSES  
PURSUANT TO CHAPTER 16, ARTICLE IX OF THE SCOTTSDALE REVISED CODE**

<b><u>Type</u></b>	<b><u>Fee</u></b>
First Year License Fee	\$200.00
Annual License Fee     (After 1 <sup>st</sup> Year)	\$100.00
Duplicate License Fee	\$10.00 or No Charge if electronic copy requested
Fingerprint Processing Fee	Not to exceed \$40.00
Reportable Transactions	\$2.00 per Transaction or \$400.00 a Month for Unlimited Transactions for a Calendar Month

There were multiple methods that the public and the industry were given to provide input. This document is a general summary and not necessarily all inclusive of the feedback that the City received. Comments were reviewed and discussed by staff and revisions were put into the ordinance to address concerns whenever it was reasonable and feasible.

**Focus Group: September 13**

**Public Meetings: September 20, 27 November 3**

- Changes in the licensing fees are too high.
- Fingerprints-What is an acceptable repeat timeframe?
- Does the online system that the City will use allow downloads from or to Excel?
- Estate sale companies should have to pay taxes also. They come into town and don't take out licenses.
- Consignment shops and Auctioneers want a specific list of what items they have to report.
- Consignment shop owners comment that Items listed on Craig's list and e-Bay drop shops contain stolen items.
- There were comments about "rolling over a ticket" in a Pawn Shop. If someone leaves and then comes back, is it a new transaction?
- What data do we have on other agencies/Police Departments in the valley? Did Phoenix get a better recovery rate after going electronic?
- The burden of the changes impact the compliant businesses
- Owner commented that he thought that Phoenix had to build their own system and that is why they charged the \$3 fee.
- Group from a national Pawn Shop stated that most people pawn 2 or 3 items.
- Auction House owners want to know if we can do an exemption for estates. Usually the next of kin hire a business to liquidate the whole estate.
- Consignment and Second hand both going to 20 days is a problem from the owner's perspective.
- Are lamps furniture? What about dishes, mirrors, art, vases, etc.
- Consignment shops and Auctioneers do not buy up front. Once someone buys the item they send the customer the money approximately 60 days later.
- Some shops will try to sell an item for 60 days and then put it up for auction if it doesn't sell.
- Businesses very concerned about Art - should \$500 be the limit?

- Auctioneers post the items they will be auctioning online – it is possible people might notice a stolen item before the police get information.

## **Phone and e-mail:**

### **September, 2011**

- Multiple concerns were expressed about the suggested transaction fee of \$3 per transaction. Suggestion was to allow unlimited addendums to each transaction.
- Complaints were made about the wording of the Pawn loan language in the re-write.
- Complaint from owner who did not have a computer in his business.
- Complaints from consignment stores that were unaware that they should have been filing reports even under the existing code. Expressed concern that fees would put people out of business.
- Question from member of public wanting to know if victims of crimes could come to the public meeting.
- Concerns from owners about having to fill out manual form and also file electronically.

In Addition, there were articles written and posted on azcetrail.com September 13<sup>th</sup> and September 25<sup>th</sup> titled: "Scottsdale Pawn Shop Rules Change" and "Scottsdale Updating Resale Industry" respectively. Both article listed the open house, dates, times, and locations. Following the articles, we received four citizen e-mails expressing concerns over the ordinance. One from a consignment user whom did not want the ordinance to pose as a roadblock to consignment shops providing their services to citizens. Two other citizens sent e-mails commenting on the proposed fees to be charged. They commented on the first articles, but we never heard anything from them after subsequent meetings.

### **October, 2011**

Consignment store owners attended the community meetings and later sent an e-mail to the Council and Mayor asking for the consignment industry to be removed from the ordinance. Commander Popp returned their e-mails and advised them that their concerns were taken into consideration in the ordinance revisions but consignment shops continue to be regulated under the current ordinance. These owners attended the subsequent community meeting and provided no further input.

A copy of the ordinance was sent to a local second hand owner upon his request. He had concerns over the amount of items businesses would be able to include in a single transaction and the cost per transaction based on the proposed fee structure. He invited Commander Popp to his business to see firsthand the volume of transactions he processes per day. Commander Popp met with him at his business for three hours.

The Arizona Pawn Association met with Commander Popp to provide input on the ordinance on behalf of the Association membership. Luis Santaella addressed issues raised by the Association.

**November 2011**

Question about when the ordinance would be going to council

Commander Popp met with a local Pawn owner at his business to view daily operation as it pertained to electronic reporting.

Commander Popp and Terry Hoglund met with the regional manager of a large second hand operation to advise them on what items they may need to report and how they could accomplish reporting if the need arose.

**December 2011**

Business owner called questioning the 20 day hold versus the 10 day hold for items taken on a purchase.

Business owners called questioning if there was zoning distance requirements for Pawn Shops.



Oct. 11, 2011

NAME  
BUSINESS NAME  
ADDRESS  
CITY, STATE, ZIP

Dear:

The City of Scottsdale is updating its Secondhand Dealers, Pawnbrokers and Auction Houses ordinance. Our primary purpose of doing so is to enhance the Police Department's ability to quickly identify stolen property.

Through our public outreach efforts, we learned that there were more opportunities to better clarify the ordinance. The city asked for your input, and we have received numerous recommendations. Many suggestions have been incorporated into the draft ordinance.

Here are some highlights of the proposed changes:

- Clarifies language for consistency and clarity
- Aligns language to comply with state law
- Requires dealers to report transactions electronically
- Establishes a \$3 transaction fee
- Changes annual license fee for Secondhand, Pawn and Auction establishments from \$100 to \$200 for the initial application, then \$100 annually, thereafter
- Changes Auctioneer licenses from a \$25 per auction charge to a \$100 annual fee
- Increases the number of exemptions from reporting

From your feedback, we have also:

- Inserted definitions for "estate," "home décor" and "precious item"
- Added exemptions for estate sales under certain conditions, most home décor items valued less than \$500 and items that are not precious and do not have a serial number that are valued less than \$100.
- Revised the transaction forms
- Made the holding period consistent for all reportable property - 20 days

**We are hosting one final open house to review the proposed changes. It will be from 6 to 7:30 p.m. Thursday, Nov. 3, at the Police Department District 3 Community Room, 9065 E. Via Linda.**

If you cannot attend, you are welcome to view the proposed ordinance online at <http://www.scottsdaleaz.gov/codes/pawn>.

Sincerely,

Terry Hoglund, Tax & License Manager

Scott Popp, Police Commander  
ATTACHMENT 4



Text Only

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## Secondhand Dealers, Pawnbrokers and Auction Houses Ordinance (Proposed)

### NEW!

The City Council will meet Tuesday, Jan. 24, 2012, to decide whether to adopt this ordinance update. The meeting starts at 5 p.m. in the City Hall Klva, 3939 N. Drinkwater Blvd. The meeting agenda, along with the Council Action Report for this Item, will be posted closer to the meeting date.

### BACKGROUND:

The City of Scottsdale is updating its Secondhand Dealers, Pawnbrokers and Auction Houses ordinance. The primary purpose of the proposed update is to enhance the Police Department's ability to quickly identify stolen property.

Through our public outreach efforts, we learned that there were more opportunities to better clarify the ordinance. The city asked for your input, and we have received numerous recommendations. Many suggestions have been incorporated into the draft ordinance.

### HERE ARE SOME HIGHLIGHTS OF THE PROPOSED CHANGES:

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### FROM YOUR FEEDBACK, WE HAVE ALSO:

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- Added exemptions for estate sales under certain conditions, most home décor items valued less than \$500 and items that are not precious and do not have a serial number that are valued less than \$100

### RELATED LINKS

[ZONING ORDINANCE RESOURCES](#)

[ACCESSIBLE SCOTTSDALE - ADA RESOURCES](#)

[ARCHIVED CITY CLERK DOCUMENTS](#)

[BUSINESS LICENSES AND PERMITS](#)

[CODES & ORDINANCES](#)

[DESIGN, ENGINEERING AND PLANNING GUIDELINES](#)

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[ESL FACT SHEET](#)

["HOW TO" GUIDES](#)

[MAG SUPPLEMENTS](#)

[PERMITS/ONE STOP SHOP](#)

[PROJECTS \(ACTIVE AND PROPOSED\)](#)

### ADDITIONAL CODE RESOURCES

[CITY CODE](#)

[INTERNATIONAL CODE COUNCIL](#)

[ICC EVALUATION SERVICE, INC](#)

[I-CODE ADOPTION MAP](#)

[OSHA](#)


ATTACHMENT 5

- Revised the transaction forms
- Once electronic system in place, businesses can retain hard copies of transactions and no longer need to provide to police department

#### ORDINANCE RESOURCES:

[Proposed Ordinance](#) (pdf/244kb/17pp/V10)

[Proposed Ordinance Fee Schedule](#) (pdf/43kb/1p)

[Existing Ordinance](#) 

[Licensing Guide](#)

#### NEED MORE INFORMATION?

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- E-mail: [VBuelteman@ScottsdaleAZ.gov](mailto:VBuelteman@ScottsdaleAZ.gov)
- Call: (480) 312-5110
- Write: City of Scottsdale Police Department, ATTN: Vicki Buelteman, 9065 E Via Linda, Scottsdale, AZ 85258



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